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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,633	10/19/2001	James M. Kain	20341-68796	6018

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BARNES & THORNBURG  
11 SOUTH MERIDIAN  
INDIANAPOLIS, IN 46204

EXAMINER
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GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/032,633	<b>Applicant(s)</b> KAIN, JAMES M.	
	<b>Examiner</b> Erika Garrett	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on March 16, 2005 from the board of appeals. *Re 4/2/05*
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

The prosecution has been reopened after the board of appeals decision since the examiner has found new reference supporting the fact that a console can be used as a booster seat. For example, the Maule reference discloses a juvenile seat being used in the environment and manner as disclosed by the applicant. The examiner is of the opinion has addressed the claims from the broadest to the narrowest and therefore a new office action has been issued upon the merits appears below.

#### ***Claim Objections***

Claim 15 is objected to because of the following informalities: the hinge portion is not disclosed in the specification nor is it shown in the drawings. Appropriate correction is required.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second hinge portions must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of a cup holder (30) comprising a shell having an inner surface providing a cup retainer (32) and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and the outer surface merges with the upstanding side wall to form an exterior surface of the base; an opened position extending from the base in which the cup retainer is open upwardly and the outer

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surface is separated from the upstanding side wall. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat comprising a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides and a seating surface between the sides to receive an occupant, the base having on at least one of the sides, an upstanding side wall having a cavity facing outwardly away from the seating surface. Maule teaches the use of a juvenile seat comprising a base (12) adapted to be placed on a vehicle seat (22) and having a front, a rear (44), opposite sides and a seating surface (42) between the sides to receive an occupant, the base having on at least one of the sides, an upstanding side wall (32) having a cavity (42) facing outwardly away from the seating surface. Its obvious to one of ordinary skill in the art at the time of the invention to modify the cup holder with a juvenile seat adapted to be place on the vehicle seat at taught by Maule, in order for the child to be seated properly in a vehicle.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of seat (12) comprising a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides (figure 1) and a seating surface between the sides to receive an occupant, the base having on at least one of the sides, an upstanding side wall having a cavity (22) facing outwardly away from the seating surface; a cup holder (30) comprising a shell having an inner surface providing a cup retainer (46) and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and the outer surface merges with the upstanding

side wall to form an exterior surface of the base; an opened positioned extending from the base in which the cup retainer is open upwardly, wherein the base provides first & second posts (88) extending into the cavity, wherein the shell includes first and second connectors (90), each connector being formed to include a post (88) opening to receive one of the posts, the connectors pivoting about the posts when the cup holder is moved between the closed and opened positions.. See figures 1-3. Gignac shows the use all the claimed invention but fails to show the use of a juvenile seat adapted to be placed on a vehicle seat. Its obvious to one of ordinary skill in the art at the time of the invention to modify the seat with a juvenile seat as taught by Maule, in order the parent to properly secure the child in a vehicle seat and provide a child with the proper restraint.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of seat (12) comprising a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides (figure 1) and a seating surface between the sides to receive an occupant, the base having on at least one of the sides, an upstanding side wall having a cavity (22) facing outwardly away from the seating surface; a shell (35) having an inner surface providing a cup retainer (46) and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the retainer extends into the cavity and opened position extending from the base in which the cup retainer is opened upwardly, wherein the outer shell surface has a convex shape (34), the upstanding sidewall has a convex shape, and the outer shell surface cooperated with the sidewall

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to continue the convex shape of the sidewall to form a smooth convex shape when the cup holder is in the closed position. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat. Maule teaches the use of a juvenile seat (12), see fig.3-4 and 7-8. Its obvious to one of ordinary skill in the art at the time of the to modify the seat with a juvenile seat as taught by Maule, in order the parent to properly secure the child in a vehicle seat and provide a child with the proper restraint.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of seat (12) comprising a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides (figure 1) and a seating surface between the sides to receive an occupant, the base having on at least one of the sides, an upstanding side wall having a cavity (22) facing outwardly away from the seating surface; a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the retainer extends into the cavity and opened position extending from the base in which the cup retainer is opened upwardly; wherein at least one of the base or the cup holder includes a detent (88) to engage a recess provided by the cup holder or the base to prevent free movement of the cup holder from the closed position. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat. Maule teaches the use of a juvenile seat (12), see fig.3-4 and 7-8. Its obvious to one of ordinary skill in the art at the time of the invention to modify the seat with a juvenile seat as taught by Maule, in order the parent

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to properly secure the child in a vehicle seat and provide a child with the proper restraint.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of a base adapted to be place on a vehicle seat and including a front, rear, and opposite sides, the base being formed to include a cavity, a cup holder (30) comprising a shell having an inner surface providing a cup retainer (32) and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and the outer surface merges with the upstanding side wall to form an exterior surface of the base; an opened positioned extending from the base in which the cup retainer is open upwardly and the outer surface is separated from the upstanding side wall; wherein the base includes an upstanding side wall having an inwardly facing wall and an outwardly facing wall, and the cavity is formed in the outwardly facing wall. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat. Maule teaches the use of a juvenile seat (12), see fig.3-4 and 7-8. Its obvious to one of ordinary skill in the art at the time of the invention to modify the seat with a juvenile seat as taught by Maule, in order the parent to properly secure the child in a vehicle seat and provide a child with the proper restraint.

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of a base adapted to be place on a vehicle seat and including a front, rear, and opposite sides, the base being formed to include a cavity, a cup holder (30) comprising a shell having



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an inner surface providing a cup retainer (32) and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends from the base and faces upwardly and wherein the base includes an upstanding side wall having an outwardly facing wall, the outwardly facing wall including opposing interior walls extending toward the other side of the base, each interior wall including a post extending into the cavity, the cup holder being pivotally coupled to the posts. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat. Maule teaches the use of a juvenile seat (12), see fig.3-4 and 7-8. Its obvious to one of ordinary skill in the art at the time of invention to modify the seat with a juvenile seat as taught by Maule, in order the parent to properly secure the child in a vehicle seat and provide a child with the proper restraint.

Claims 11-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac a juvenile booster seat adapted to be placed on a vehicle seat comprising a front, opposite sides, a seating surface between the sides, and a back, and a cup holder having a shell and a cup retainer coupled to the shell, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position placing the shell alongside said one of the sides of the booster seat and preventing access to the cup retainer and an opened position permitting access to the cup retainer; wherein the one side comprises a generally inwardly facing wall and a generally outwardly facing wall, the outwardly facing wall having a cavity therein to receive at least a portion of the cup retainer in the closed position; wherein the outwardly facing wall is convex, and the outer surface is

continuous with the outwardly facing wall when the cup holder is in the closed position. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat. Maule teaches the use of a juvenile seat (12), see fig.3-4 and 7-8. Its obvious to one of ordinary skill in the art at the time of invention to modify the seat with a juvenile seat as taught by Maule, in order the parent to properly secure the child in a vehicle seat and provide a child with the proper restraint.

Claim 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of a seat adapted to be placed on a vehicle seat comprising a front, opposite sides, a seating surface between the sides, and a back, and a cup holder (30) having a shell and a cup retainer, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position preventing access to the cup retainer and an opened position permitting access to the cup retainer, wherein the shell includes a first hinge portion (figure 3), and the side to which the cup holder is coupled includes a second hinge portion, the coupling between the cup holder and the one o f the sides being provided by the hinge portions. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat. Maule teaches the use of a juvenile seat (12), see fig.3-4 and 7-8. Its obvious to one of ordinary skill in the art at the time of invention to modify the seat with a juvenile seat as taught by Maule, in order the parent to properly secure the child in a vehicle seat and provide a child with the proper restraint.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gignac (5,248,183) in view of Maule (5,516,194). Gignac discloses the use of a seat (10)

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comprising a front, opposite sides, a seating surface between the sides, and a back; a cup holder having a shell and a cup retainer (46), the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position preventing access to the retainer and an opened position permitting access to the cup retainer, wherein the shell includes an outer shell surface and an inner shell surface, the side to which the cup holder is coupled includes a support edge to contact a portion of the outer shell surface to support the cup holder in the opened position, the support edge having a shape to match the shape of the portion of the outer shell surface so contacted, see figures 1-3. Gignac shows the use of the claimed invention but fails to show the use of a juvenile seat. Maule teaches the use of a juvenile seat (12), see fig.3-4 and 7-8. It is obvious to one of ordinary skill in the art at the time of invention to modify the seat with a juvenile seat as taught by Maule, in order the parent to properly secure the child in a vehicle seat and provide a child with the proper restraint.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicant argument that Gignac fails to show "*a juvenile seat adapted to be place on a vehicle seat*", applicant attention is drawn to the above rejection. The examiner is of the opinion that Gignac in view of Maule does in fact show a juvenile seat adapted to be place on a vehicle seat.

In response to the applicant argument that a *"console can not be used as a juvenile seat adapted to be place on a vehicle seat"*, applicant attention is drawn to the Maule reference, figures 3-4 and 7-8. The examiner is of the opinion that Maule does in fact show a console used as a juvenile seat adapted to be place on a vehicle seat.

In response to the applicant argument that Gignac fails to show *"a first and second posts extending into the cavity"*, applicant attention is drawn to the above rejection. The examiner is of the opinion that Gignac does in fact show first and second posts extending into the cavity, shown on figure 2.

In response to the board of appeals that *a console is not a juvenile seat and Gignac shows console, not a juvenile seat*. **The board of appeals is directed to the Maule reference.** The Maule reference teaches the use of a console being used as a child seat or booster seat. It also shows restraints that are used to secure the child in the booster seat. Therefore the examiner is of the opinion a console and is used as a juvenile seat, i.e. child seat and/or booster seat.

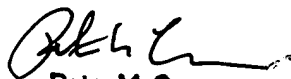
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EG  
March 29, 2005

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600

JOHN J. LOVE  
DIRECTOR  
TECHNOLOGY CENTER 3600  
